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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

2005 JAN -5 AM 8:59

ADMINISTRATIVE ORDER

FILED  
EPA REGION VIII  
HEARING CLERK

IN THE MATTER OF Basin Western U.S. 6 Oil Spill

Docket Number: **CWA-08-2005-0009**

Proceedings under Section 311 (c) of the Clean Water Act (CWA), 33 U.S.C. § 1321 (c), as amended by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq.

**I. DEFINITIONS**

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil (Section 311(a)(1) of the CWA, 33U.S.C. §1321(a)(1)).

"Hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section (Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14)).

"Navigable water of the United States" means the waters of the United States, including the territorial seas (Section 502(7) of the CWA, 33 U.S.C. § 1362(7)).

"Facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than submerged land (Section 311(a)(10) of the CWA, 33U.S.C. §1321(a)(10)).

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of CWA, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of CWA, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of CWA which are caused by events occurring within the scope of relevant operating or treatment systems (Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2)).

**II. FINDINGS OF FACT AND VIOLATIONS**


A. This Order is being issued under §311(c) of the Clean Water Act, 33 U.S.C. §1321 for a discharge or a substantial threat of discharge of oil and/or a hazardous substance into waters of the United States.

B. On or about 30 December 2004 (date of discharge), a discharge or a substantial threat of a discharge of 1500-5000 gallons of oil (jet fuel), reached or may reach Clear Creek (body of

water) which is a navigable water of the United States. This discharge or substantial threat of a discharge from the Basin Western MC 306 Fuel Tanker occurred at 0358 MDT (see NRC IR 745750). The incident occurred when the driver accidentally drove off of U.S. Highway 6 while driving during blizzard conditions. (Name and address of facility) facility constitutes a substantial threat to the public health or welfare.

C. Respondent(s) Basin Western, P.O. Box 877, Roosevelt, Utah 84066 is the owner(s)/operator(s) of the facility.

### III. WORK TO BE PERFORMED (Initial all that apply)

 A. **RESPONDENT IS HEREBY ORDERED** to complete the tasks described below within the dates specified and in accordance with the National Contingency Plan, 40 CFR Part 300, and any appropriate area contingency plan, and any applicable §311(j) facility response plan.

#### B. IMMEDIATE STABILIZATION AND MITIGATION ACTIONS (see attached sheet for further requirements)

Take all actions necessary to stop the release and off-load fuel from the damaged MC 306 fuel tanker.

BY Dec /31 /2004.

Remove damaged tanker MC 306 from spill area once off-loading is completed.

BY Dec /31 /2004.

Position containment/absorbent boom in Clear Creek to prevent migration of spilled fuel downstream

BY Dec/ 31 /2004.


Survey the area around the spill and determine the extent of fuel migration.

BY Jan /2 / 2005

Remove, to the extent possible, contaminated snow and soil to prevent migration of spilled fuel.

BY Jan /9 /2005.

#### C. REMOVAL ACTION

 Within 7 days from the date this Order is signed by EPA, Respondent(s) shall develop and submit to EPA for approval, a Work Plan and schedule for completing the tasks described below. Respondent(s) shall begin work within 1 days of EPA approval of the Work Plan. The Work Plan shall include the following tasks:

- Identify extent of area of contamination.

- Identify drainage pathway from the incident location.

- Assess local geological concerns and characteristics to determine potential for subsurface migration to water.

- Develop a plan to limit migration of fuel from incident area.

- Implement approved recovery and containment plan.

Within 7 days from the date this Order is signed by EPA, Respondent(s) shall develop and submit to EPA for approval, a Sampling Plan and schedule for sampling. Respondent(s) shall implement the Sampling Plan within 1 days of EPA approval. The Sampling Plan must satisfy the following requirements:

- Develop a sampling plan to support Removal Action Plan described in Section C of this document.

#### D. REPORTING REQUIREMENTS

Respondent(s) shall prepare and submit to the On-Scene Coordinator the following reports:

- Weekly Progress Reports due on \_\_\_\_\_
- Monthly Progress Reports due on \_\_\_\_\_
- ☒ Final Completion Report due 30 days after the completion of the Removal Action

#### E. OTHER REQUIREMENTS

NA

#### IV. RESERVATION OF RIGHTS AND PENALTIES

- A. This Order does not preclude EPA from taking any actions authorized by CWA, the National Contingency Plan, or any other law. EPA reserves the right to direct all activities and to comment on and direct changes to deliverables, off-site shipping and disposal, and all other matters.
- B. Respondent shall notify EPA of any response actions it takes as to this discharge that are in addition to those described in this Order.
- C. Violation of any term of this ORDER may subject Respondents to an administrative civil penalty of up to \$27,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure. (Section 311(b)(7)(B) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(B) as amended by the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq.)

#### V. EFFECTIVE DATE

The effective date of this ORDER shall be the date of the receipt of this Order by the Respondents.

On-Scene Coordinator

Date

30 Dec 2004

Received by

Representing Respondent

Date

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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ADMINISTRATIVE ORDER

IN THE MATTER OF Basin Western US 6 Oil Spill

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Docket Number: **CWA-08-2005-0009**

Proceedings under Section 311 (c) of the Clean Water Act (CWA), 33 U.S.C. § 1321 (c), as amended by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq.

**I. DEFINITIONS**

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil (Section 311(a)(1) of the CWA, 33U.S.C. §1321(a)(1)).

"Hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section (Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14)).

"Navigable water of the United States" means the waters of the United States, including the territorial seas (Section 502(7) of the CWA, 33 U.S.C. § 1362(7)).

"Facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than submerged land (Section 311(a)(10) of the CWA, 33U.S.C. §1321(a)(10)).

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of CWA, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of CWA, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of CWA which are caused by events occurring within the scope of relevant operating or treatment systems (Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2)).

**II. FINDINGS OF FACT AND VIOLATIONS**

A. This Order is being issued under §311(c) of the Clean Water Act, 33 U.S.C. §1321 for a discharge or a substantial threat of discharge of oil and/or a hazardous substance into waters of the United States.

B. On or about 30 Dec 2004 (date of discharge), a discharge or a substantial threat of a discharge of 1500-5000 gallons barrels of oil and/or NA, which is/are hazardous  
(Jet fuel)

substance(s), reached or may reach Clear Creek (body of water) which is a navigable water of the United States. This discharge or substantial threat of a discharge from the Basin Western MC306 Fuel Tanker occurred at 0358 MDT. (See MRC IN 745758)  
The incident occurred when the driver accidentally drove off of US 6 while driving during blizzard conditions.

(Name and address of facility) facility constitutes a substantial threat to the public health or welfare.

C. Respondent(s) Basin Western, P.O. Box 877 Roswell, Utah 84066 is/are the owner(s)/operator(s) of the facility.

### III. WORK TO BE PERFORMED (Initial all that apply)

JA A. RESPONDENT IS HEREBY ORDERED to complete the tasks described below within the dates specified and in accordance with the National Contingency Plan, 40 CFR Part 300, and any appropriate area contingency plan, and any applicable §311(j) facility response plan.

#### B. IMMEDIATE STABILIZATION AND MITIGATION ACTIONS (see attached sheet for further requirements)

Take all actions necessary to stop release & offload fuel from damaged MC306 fuel tanker

BY Dec 31/04  
Dec 30/04

Remove damaged tanker MC306 once off loaded

BY Dec 31/04

Position containment/absorbent boom in Clear Creek to prevent migration downstream

BY Dec 31/04

Survey the area around the spill & determine the extent of fuel migration

BY Jan 2/05  
Dec 31

Remove, to the extent possible, contaminated snow & soil to prevent migration of spilled fuel

BY Jan 9/05

#### C. REMOVAL ACTION

JA Within 7 days from the date this Order is signed by EPA, Respondent(s) shall develop and submit to EPA for approval, a Work Plan and schedule for completing the tasks described below. Respondent(s) shall begin work within 1 days of EPA approval of the Work Plan. The Work Plan shall include the following tasks:

- Identify extent of area of contamination
- Identify drainage pathway from the incident location
- Assess local geological concerns & characteristics to determine potential for subsurface migration to water
- Develop a plan to limit migration of fuel from incident area.
- Implement recovery & containment plan.

1 Within 1 days from the date this Order is signed by EPA, Respondent(s) shall develop and submit to EPA for approval, a Sampling Plan and schedule for sampling. Respondent(s) shall implement the Sampling Plan within 1 days of EPA approval. The Sampling Plan must satisfy the following requirements:

Develop a sampling plan to support Removal Action Plan described in Section C of this document

#### D. REPORTING REQUIREMENTS

Respondent(s) shall prepare and submit to the On-Scene Coordinator the following reports:

☐ Weekly Progress Reports due on \_\_\_\_\_

☐ Monthly Progress Reports due on \_\_\_\_\_

☒ Final Completion Report due    days after the completion of the Removal Action

#### E. OTHER REQUIREMENTS

NA

#### IV. RESERVATION OF RIGHTS AND PENALTIES

- A. This Order does not preclude EPA from taking any actions authorized by CWA, the National Contingency Plan, or any other law. EPA reserves the right to direct all activities and to comment on and direct changes to deliverables, off-site shipping and disposal, and all other matters.
- B. Respondent shall notify EPA of any response actions it takes as to this discharge that are in addition to those described in this Order.
- C. Violation of any term of this ORDER may subject Respondents to an administrative civil penalty of up to \$27,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure. (Section 311(b)(7)(B) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(B) as amended by the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq.)

#### V. EFFECTIVE DATE

The effective date of this ORDER shall be the date of the receipt of this Order by the Respondents.

[Signature]  
On-Scene Coordinator

30 December 2001  
Date

Received by

Robert Carpenter  
Representing Respondent

30 December 2004  
Date

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EMERGENCY ADMINISTRATIVE ORDER** in the matter of **BASIN WESTERN U.S. 6 OIL SPILL**, **DOCKET NO.: CWA-08-2005-0009** was filed with the Regional Hearing Clerk on January 5, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to David J. Janik, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on January 5, 2005 to:

Dennis Hatch, Vice President  
Safety Driver Training  
Basin Western  
P. O. Box 877  
Roosevelt, UT 84066

And

Commander  
U. S. Coast Guard  
1430 A Kristina Way  
Chesapeake, VA 23326

January 5, 2005



Tina Artemis  
Regional Hearing Clerk